

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JOHN F. CHASE,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 2:18-cv-165-DBH
)	
ARTHUR MERSON, ET AL.,)	
)	
DEFENDANTS)	

PROCEDURAL ORDER

Federal subject matter jurisdiction in this case is based upon two RICO counts. The defendant Donald B. Patch, who is named in one of the RICO counts, has moved to dismiss the entire case for lack of subject matter jurisdiction (ECF No. 83), and the issue has been fully briefed by Patch and the plaintiff. Of the other defendants who have not been defaulted some, but not all, have raised a subject matter jurisdiction defense in their Answers but have not yet argued it. (Raised or not, subject matter jurisdiction is not waivable.)

My ruling on the pending motion will affect these other parties. If I grant the motion, the case will probably exit federal court (it seems unlikely that the supplemental state claims would proceed without the federal hook). But if I deny it, that ruling will also affect the entire case, and I do not expect to entertain later arguments from these other defendants to raise it again.

I conclude therefore that the best course is to allow the other non-defaulted defendants the opportunity to raise any subject matter jurisdiction issues now. They shall do so by legal memoranda filed by April 15, 2019. The

plaintiff shall file any additional response by April 29, 2019. There is no need for further replies given the briefing that has already occurred.

SO ORDERED.

DATED THIS 2ND DAY OF APRIL, 2019

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE